



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

March 3, 2014

Memorandum for: Deputy Commissioner, Trials

Re: **Detective Michael Fantroy**
Tax Registry No. 920267
Manhattan Court Section
Disciplinary Case No. 2014-11309

CHAN

The above named member of the service was tried *in absentia* before Assistant Deputy Commissioner Claudia Daniels-DePeyster on February 18, 2014 and was charged with the following:

DISCIPLINARY CASE NO. 2014-11309

1. Said Detective Michael Fantroy, assigned to Manhattan Court Section, while on-duty, in the vicinity of One Police Plaza, Manhattan, on or about February 10, 2014, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Detective Fantroy failed to comply with an order to answer questions during an Official Department Interview being held pursuant to Patrol Guide 206-123.

P.G. 206-13, Page 2, Paragraph 12

**INTERROGATIONS OF MEMBERS OF
THE SERVICE**

P.G. 203-3

COMPLIANCE WITH ORDERS

P.G. 203, Page 1, Paragraph 5

GENERAL REGULATIONS

2. Said Detective Michael Fantroy, on or about February 11, 2014, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Detective Fantroy failed to comply with an order to appear at the Chief of Internal Affairs' office, located at 1 Police Plaza, at 10:00 hours on February 11, 2014, in order to answer questions at an Official Department Interview being held pursuant to Patrol Guide 206-123.

P.G. 206-13, Page 2, Paragraph 12

**INTERROGATIONS OF MEMBERS OF
THE SERVICE**

P.G. 203-3

COMPLIANCE WITH ORDERS

P.G. 203, Page 1, Paragraph 5

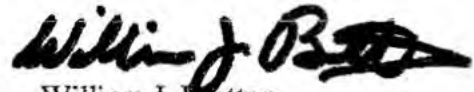
GENERAL REGULATIONS

In a Memorandum dated February 25, 2014, Assistant Deputy Commissioner Claudia Daniels-DePeyster found Detective Michael Fantroy Guilty of Specification Nos. 1 and 2, in Disciplinary Case No. 2014-11309. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

The misconduct committed by Detective Fantroy in these matters warrants his separation from the Department. However, with consideration of his otherwise good service and performance history, I will permit a method of separation other than dismissal from the Department.

It is therefore directed that a post-trial Vested Interest retirement agreement be implemented with Detective Fantroy. In consideration of such, Detective Fantroy is to forfeit all prior suspension without pay days already served, plus remain on suspended-duty status until his final date of separation from the Department, plus forfeit all accrued time/leave balances, plus be immediately placed on a One-Year Dismissal Probation period. Detective Fantroy will retire while on suspended-duty status.

Such Vested-Interest retirement shall also include Detective Fantroy's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Detective Fantroy does not agree to the terms of this Vested-Interest retirement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY.**

A handwritten signature in black ink, appearing to read "William J. Bratton", with a stylized flourish at the end.

William J. Bratton
Police Commissioner



POLICE DEPARTMENT

February 25, 2014

-----X
In the Matter of the Charges and Specifications : Case No. 2014-11309

- against - :

Detective Michael Fantroy :

Tax Registry No. 920267 :

Manhattan Court Section :
-----X

At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Claudia Daniels-DePeyster
Assistant Deputy Commissioner - Trials

APPEARANCE:

For the Department: David Bernstein, Esq.
Vivan Joo, Esq.
Department Advocate's Office
One Police Plaza
New York, New York 10038

For the Respondent: Tried *in absentia*

To:

HONORABLE WILLIAM J. BRATTON
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

The above-named member of the Department had a trial scheduled before me on February 18, 2014, charged with the following:

1. Said Detective Michael Fantroy, assigned to Manhattan Court Section, while on-duty, in the vicinity of One Police Plaza, Manhattan, on or about February 10, 2014, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Detective Fantroy failed to comply with an order to answer questions during an Official Department Interview being held pursuant to Patrol Guide 206-13.

P.G. 206-13, Page 2, Paragraph 12 – INTERROGATIONS OF MEMBERS OF
THE SERVICE

P.G. 203-3 COMPLIANCE WITH ORDERS

P.G. 203, Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Detective Michael Fantroy, on or about February 11, 2014, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Detective Fantroy failed to comply with an order to appear at the Chief of Internal Affairs' office, located at 1 Police Plaza, at 10:00 hours on February 11, 2014, in order answer questions at an Official Department Interview being held pursuant to Patrol Guide Procedure 206-13.

P.G. 206-13, Page 2, Paragraph 12 – INTERROGATIONS OF MEMBERS OF
THE SERVICE

P.G. 203-3 COMPLIANCE WITH ORDERS

P.G. 203, Page 1, Paragraph 5 GENERAL REGULATIONS

The Department was represented by David Bernstein and Vivian Joo, Esqs., Department Advocate's Office. Respondent was tried *in absentia* and was not represented by counsel. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty.

INTRODUCTION

It is not in dispute that Respondent was charged in Queens Criminal Court with operating a motor vehicle and leaving the scene of an accident where a person suffered severe injury. On or about February 10, 2014, this matter was conferenced in the trial room of the Deputy Commissioner-Trials. Present were the attorneys for the Department Advocate's Office, David Bernstein and Vivian Joo Esqs., as well as Respondent and his attorney, Aaron Ward Esq. Respondent was advised that since he filed for retirement, the Department was placed in a position that it had to proceed expeditiously against him in a disciplinary trial without waiting for the conclusion of the criminal charges he had pending against him. Respondent was advised that if he withdrew his retirement papers, the Department trial would not proceed in this manner. Respondent elected not to withdraw his retirement papers. This matter was scheduled for trial as follows: Wednesday, February 12 at 10:00 a.m., the trial would commence; Thursday, February 13 at 2:00 p.m., the trial would continue and Friday, February 14, the trial would continue if needed.

Although the case was called on February 12, 13 and 14, and the Department attorneys were present, neither Respondent nor his attorney appeared. Respondent's attorney called the office of the Deputy Commissioner of Trials on or about the afternoon of February 12 to advise the court personnel that he was instructed by his client not to appear. A decision was made that a final trial date would be set for Tuesday, February 18, 2014 at 10:00 a.m. The Department would proceed in absentia if Respondent failed to appear. Respondent was instructed of this additional trial date and ordered to appear.

In addition, a letter informing Respondent of the additional trial date was delivered to Respondent's address as well as to his attorney's address.

Respondent had been served with additional Charges and Specifications for failing to comply with an order to 1) answer questions during an official Department interview on February 10, 2014 and 2) appear at an official Department interview to answer questions on February 11, 2014.¹ A trial was held in absentia on February 18, 2014 based on these two Charges and Specifications.

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Lieutenant Stephen Dreyer and Sergeant Patrick Romain.

Lieutenant Stephen Dreyer

Dreyer is a 16-year member of the Department currently assigned to Internal Affairs Bureau (IAB), Group 54. He has been assigned to that command since January of 2011 and was promoted to the rank of lieutenant on July 2, 2010. Dreyer testified that he was assigned IAB Case Log No. 12-20376. The original investigator assigned to the case was Sergeant Staudinger from Group 41. That sergeant has since retired from the Department and the case was reassigned two weeks ago to Dreyer. Dreyer stated that the case involved an allegation that Respondent was involved in a vehicle accident where he struck a pedestrian who was injured. Respondent left the scene of the accident without reporting it. The pedestrian was an 82-year-old female who sustained lacerations to the face and three fractures to the face which required a 1-inch suture to close. She did not

¹ Respondent was served pursuant to Patrol Guide 206-06.

pass away from her injuries but as a result of the injuries, there is a pending criminal case against Respondent. Respondent is facing a felony charge, leaving the scene of an accident, where a pedestrian was struck without reporting as well as two other misdemeanor charges under Vehicle and Traffic Law (VTL) Section 602.

Dreyer testified that after receiving the case, his first investigative step was to conduct a Patrol Guide 206-13 interview of Respondent. The initial date scheduled for the interview was Friday, February 7, 2014. Respondent came to the interview and he was represented by Detectives' Endowment Association representative Thomas Tuffey. Prior to the commencement of the interview, Respondent spoke with Tuffey and informed Dreyer that he was not satisfied with his representation. The interview was then rescheduled for the following Monday, February 10, 2014. Respondent stated that he wanted his private attorney who he had retained for his criminal trial to represent him, Mr. Aaron Ward. Ward was not available for the February 7 date, but he indicated that he would be available on February 10, and that is why the interview was rescheduled for that date.

Dreyer noted that Respondent had filed paperwork for retirement and that is why the case was referred to him to handle. He also noted that because the criminal trial was still ongoing, the process to handle the Department investigation had to be expedited. Dreyer testified that Respondent's official Department interview commenced on Monday, February 10, 2014 at approximately 4:00 p.m. Respondent's legal representation was Aaron Ward. Dreyer said he posed questions and received answers for approximately 40 minutes during the interview. At about the 40-minute mark, he testified that he questioned Respondent specifically about whether his wife was present at his house on

the night of the incident that was under investigation. Respondent at that point refused to answer any questions, became belligerent and stood up. Dreyer instructed him that he was required to answer the questions but Respondent refused. Respondent's attorney attempted to intervene and asked Respondent if he was willing to continue with the interview if the question was rephrased and Respondent replied, "No." Respondent attempted to walk out of the room. He asked Dreyer if he was a lieutenant, and when Dreyer responded in the affirmative, Respondent gave him his Department ID card and stated that he quit.

Dreyer testified that at that point, he ordered Respondent to answer the questions and if he refused, he would be suspended. Respondent refused to answer the questions and Dreyer suspended him. Dreyer noted that prior to commencing his questioning of Respondent, he read to him the provisions of Patrol Guide 206-13 and 203-08 into the record. As part of the readings he noted, Respondent would be subject to discipline up to and including dismissal from the Department if he refused to answer questions. Dreyer said that his last question involved whether Respondent's wife was home on the night of the incident. He explained that the investigation had determined when Respondent pulled up in front of his residence; there were people in front who were family members. In addition, the investigation revealed that Respondent's subpoenaed phone records showed that he made numerous phone calls to his wife in the early morning hours of the 16th which is the day after the incident.

After Respondent was informed that he was suspended, he walked out of the interview room which took place in the Chief of Internal Affairs office, and he was followed by his attorney. Dreyer stated that he instructed Respondent that he was

required to appear for a previously scheduled Department trial on Wednesday, February 12, 2014. Dreyer noted that the Patrol Guide 206-13 interview had been recorded. (Department Exhibit (DX) 1 is the compact disc of the official Department interview and DX 1A is a transcript of that proceeding). Dreyer testified that he reviewed the audio of the interview as well as the transcript of the interview and made corrections where needed and he initialed both items.

Dreyer stated that he had not completed conducting the official Department interview of Respondent at the time that he walked out of the interview room. Dreyer then went downstairs to the Department Advocate's Office where he saw Respondent's attorney, Ward. Ward advised Dreyer that Respondent left his cell phone in the interview room and he wanted to retrieve it. Dreyer retrieved the cell phone and gave it to Ward. Dreyer explained that when he went to retrieve the cell phone, he conferred with his superiors who indicated that Respondent would be suspended pursuant to the authority of Chief of IAB Charles Campisi. He was also instructed to locate Respondent and officially suspend him as well as order him to appear on February 11, 2014 at 9:00 a.m. to resume his interview at the Chief of Internal Affairs office.

When Dreyer met with Ward to return the cell phone, he inquired about the whereabouts of Respondent. Ward advised him that Respondent was standing outside of One Police Plaza somewhere. Dreyer asked if it was okay for him to speak to his client outside of the building and Ward stated that he did not have a problem with that. Dreyer said that he took the elevator to the first floor and walked out of the main entrance at One Police Plaza where he observed Respondent. Dreyer informed Respondent that he was suspended and ordered him to appear to continue his interview the following day on

February 11 at 10:00 a.m. at the Chief of Internal Affairs office. He was also ordered to appear for the Department trial on Wednesday, February 12. Respondent said in sum and substance that the next time Dreyer saw him, he would be returning all of his "stuff." Dreyer noted that his conversation with Respondent on the plaza was recorded (DX 2 is the compact disc of the conversation giving orders to Respondent; DX 2A is the transcript of that conversation).

Dreyer testified that Respondent failed to appear at the Chief of Internal Affairs office for the continuation of the Patrol Guide 206-13 hearing. He explained that he had one of his sergeants, namely Sergeant Patrick Romain, posted at the Chief of Internal Affairs office from approximately 9:00 a.m. to approximately 4:00 p.m. to monitor whether Respondent came into the office. Romain was to call Dreyer if Respondent came to the office. Dreyer noted that neither Respondent nor any legal representative or delegate on his behalf contacted the office to reschedule his official Department interview. Dreyer stated that he was in possession of Respondent's Department ID card. He said that if Respondent showed up to One Police Plaza, he would have to go through the regular headquarters security procedures to gain access to the building. Dreyer also noted that because he suspended Respondent, he would have had to take Respondent's ID card, but he already had it in his possession since Respondent handed it to him before he left the interview room before stating, "I quit."

Sergeant Patrick Romain

Romain is a nine-year member of the Department currently assigned to IAB Group 54, where he has worked for over 15 months. On February 11, 2014, his

assignment was to wait for Respondent to arrive at the Chief of Internal Affairs office at One Police Plaza. Romain arrived at the office at approximately 9:30 a.m. where he announced himself to Detective Clyde Fernandez who was at the desk. After being let in, he walked to the back where there is a conference room and he waited for Respondent to arrive. He explained that he told Fernandez who he was and why he was there. He also told Fernandez that if Respondent arrived, to inform him that he was waiting for him in the conference room.

Romain testified that he remained in the conference room until approximately 12:00 p.m. when he left to get something to eat. Before he left the office, he gave his business card to Fernandez and asked him to call him if Respondent showed up. Romain returned to the office at 1:00 p.m. and Fernandez was still at the desk. He was let into the office and Romain remained at the conference room until approximately 3:30 p.m. He explained that the walls are thin in the office and he could hear people coming and going. He noted that there was no mention of Respondent showing up. When he decided to leave the office at 3:30 p.m., he spoke to Fernandez again and told him to call him if Respondent showed up. Romain did not receive any phone calls. Romain also noted that he arrived at his own office at 4:00 pm., and he was never notified that Respondent ever showed up at the Chief of Internal Affairs office for his official Department interview.

Respondent's Case

Respondent presented no witnesses and failed to appear or testify on his own behalf.

FINDINGS AND ANALYSIS

Respondent stands charged herein in that while assigned to Manhattan Court Section, while on duty, in the vicinity of One Police Plaza, Manhattan, on or about February 10, 2014, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Detective Fantroy failed to comply with an order to answer questions during an Official Department Interview being held pursuant to Patrol Guide Procedure 206-13.

Respondent is also charged herein in that on or about February 11, 2014, did wrongfully engage in conduct prejudicial to the good order, efficiency or discipline of the Department in that said Detective Fantroy failed to comply with an order to appear at the Chief of Internal Affairs' office, located at 1 Police Plaza, at 10:00 hours on February 11, 2014, in order to answer questions at an Official Department Interview being held pursuant to Patrol Guide Procedure 206-13.

Evidence adduced at trial established that on the first incident date, February 10, 2014, Respondent did appear at an Official Department Interview being held at the Chief of Internal Affairs Office in One Police Plaza and conducted by Lieutenant Stephen Dreyer. The interview referred to an allegation that Respondent had been involved in a hit and run accident in which an elderly woman was struck and sustained injury and Respondent was accused of leaving the scene of the accident. Respondent is facing criminal felony and misdemeanor charges with respect to that matter.

At some point during the interview, on or about 35 minutes into the interview, Dreyer asked Respondent a question regarding whether his wife was present at his home on the accident date. Respondent raised his voice. He uttered expletives which included:

Respondent: "You want to get personal, what you want to get? You talking about a vehicle or you talking about a fu ing accident? Fu you. And guess what? I am not and don't be fu ing getting my wife involved in this situation. You want to talk about the vehicle sh then we'll talk about it..."

Dreyer: I ask the questions.

Respondent: You ain't asking nothing. The conversations over, let's go home, let's go. It's over."

He asked Dreyer if he was a lieutenant. When Dreyer responded in the affirmative, Respondent handed him his [Respondent's] Department ID card and stated that he quit. Dreyer repeatedly told Respondent that he would rephrase the question. Respondent was asked if the question was removed would he continue the interview and he responded, "No." Respondent repeatedly told Dreyer that he did not like his tone and that the interview was over. Dreyer repeatedly instructed Respondent to sit down and answer questions, but he refused. Dreyer advised Respondent that if he refused to answer questions, he would be disciplined which would include suspension and possible termination. Respondent refused to continue with the official Department interview. Dreyer informed Respondent that he was suspended from duty and Respondent thanked Dreyer for the suspension. In fact, Respondent walked out of the interview and told his attorney, Mr. Aaron Ward to leave also.

Later Respondent was observed standing outside of One Police Plaza. Dreyer approached him and informed Respondent 1) that he was suspended under the orders of Chief Charles Campisi of the Internal Affairs Bureau; 2) that he was ordered to appear at the Chief of Internal Affairs office the following day, February 11, 2014 at 10:00 a.m. to resume his official Department interview; and 3) that Respondent was ordered to appear at a Department trial which was previously scheduled to be held on Wednesday, February

12, 2014. Dreyer testified that this conversation with Respondent was recorded. (DX 2 and DX 2A are the compact disc and transcript, respectively of the conversation between Dreyer and Respondent ordering him to appear). Respondent failed to appear at the Chief of Internal Affairs office on February 11, 2014 as ordered or to the Department trial on February 12.

With respect to his failure to appear at Chief of Internal Affairs office, Sergeant Patrick Romain testified. Romain said that he was assigned to the Chief of Internal Affairs office on Tuesday, February 11. His assignment on that date was to await the arrival of Respondent for his official Department interview. If Respondent showed up, he was to take action. He waited in the Chief of Internal Affairs conference room the entire day and Respondent failed to appear. Romain testified that he arrived at 9:30 a.m. He was buzzed into the office and spoke with Detective Fernandez. He gave him his business card and informed him to let him know if Respondent showed up. Romain proceeded to wait in the Chief of Internal Affairs conference room for Respondent who failed to appear. Romain said he stayed in the conference room until 12:00 p.m. when he took a lunch break. He returned at 1:00 p.m. and spoke to Fernandez again who advised him that Respondent had not appeared. Romain remained at the Chief of Internal Affairs office until 3:30 p.m., and Respondent never arrived. In fact, Romain testified that he checked periodically to make sure that Respondent never appeared. He even checked to see if Respondent called or his attorney called to reschedule the interview, but no one called the office. Romain said when he left the office, he gave Fernandez his business card and told him to call him in his office if Respondent arrived. Romain arrived at his

own office at 4:00 p.m. and he was never notified that Respondent ever appeared at the Chief of Internal Affairs office.

Accordingly, Respondent is found Guilty of Specification Nos. 1 and 2.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on December 8, 1997. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent has been found Guilty of failing to comply with two orders: one to answer questions during an official Department interview pursuant to Patrol Guide section 206-13. He was also found Guilty of failing to comply with an order to appear at the Chief of Internal Affairs office on February 11, 2014 to answer questions at an official Department interview.

A review of the evidence admitted at trial (DX 2, and DX 2A) indicates that Respondent also failed to comply with orders to appear at his Department trial. This Court has long held that failure to answer questions at an official Department interview is grounds for termination. (See Disciplinary Case Nos. 79582/04 and 79611/04 (April 4, 2005). Particularly in an instance such as this which involved allegations that Respondent, a New York City Police Detective was involved in a hit and run accident which resulted in the injury to an elderly pedestrian who sustained facial injuries requiring sutures. The fact that Respondent walked out of the interview, knowing the nature of the subject matter is troublesome at best. During the interview of February 10,

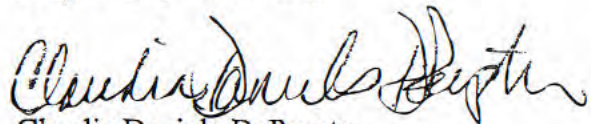
2014, Respondent was read the provisions of Patrol Guide 206-13 which states that he will be asked questions directly and narrowly related to the performance of his duties. He is also advised that any statements he gives cannot be used against him in any subsequent criminal proceedings. But what is also of significance is that Patrol Guide 206-13 as it was read to Respondent stated in pertinent part:

If you refuse to testify to answer questions relating to the performance of your official duties you will be subject to departmental charges which could result in your dismissal from the Police Department.

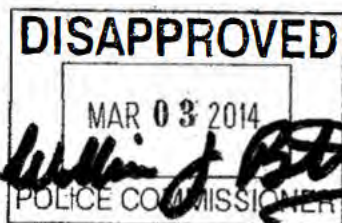
Thus Respondent was well aware of the fact that if he failed to answer questions, he would be subjected to departmental charges and face possible termination from his position with the Department. Respondent willfully refused to comply with a lieutenant's lawful order, issued during an official Department interview, that he answer questions narrowly related to specific off duty conduct. Respondent also willfully refused to comply with a lieutenant's order to appear the following day to resume the official Department interview.

Accordingly, I therefore recommend that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Claudia Daniels-DePeyster
Assistant Deputy Commissioner-Trials





POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :

- against - :

Detective Michael Fantroy :

Tax Registry No. 920267 :

Manhattan Court Section :

FINAL

ORDER

OF

DISMISSAL
-----X

Detective Michael Fantroy, Tax Registry No. 920267, Shield No. 4043, Social Security No. ending in [REDACTED] having been served with written notice, has been tried on written Charges and Specifications numbered 2014-11309, as set forth on form P.D. 468-121, dated February 11, 2014, and after a review of the entire record, Respondent has been found Guilty as charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Detective Michael Fantroy from the Police Service of the City of New York.

WILLIAM J. BRATTON
POLICE COMMISSIONER

EFFECTIVE:

POLICE DEPARTMENT
CITY OF NEW YORK

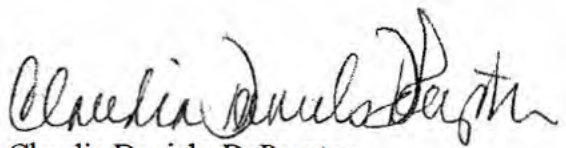
From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE MICHAEL FANTROY
TAX REGISTRY NO. 920267
DISCIPLINARY CASE NO. 2014-11309

In 2010 and 2012, Respondent received an overall rating of 4.0 “Highly Competent” on his annual performance evaluations. In 2011, he received a rating of 3.5 “Above Competent.” Respondent has received two Excellent Police Duty Medals in his career to date.

[REDACTED]

Respondent has no prior formal disciplinary record.

For your consideration.


Claudia Daniels-DePeyster
Assistant Deputy Commissioner Trials